

The complaint

Mr P has complained that Usay Business Limited ('Usay') mis-sold an income protection insurance policy to him.

What happened

Mr P spoke to a Usay adviser about his income protection needs in February 2022. He took a policy with a 4-week deferred period. He became unwell and made a claim in June 2022 but was unhappy with the advice and service he received from the insurer.

He contacted Usay as he was under the impression that he would be paid from day one of being unwell.

Usay apologised for any misinformation it gave and offered £2,500, equivalent to one month of benefit but Mr P rejected this.

Unhappy, Mr P referred his complaint to this Service.

Our investigator looked into the complaint and found that Usay could have been clearer about the deferred period but she didn't think the policy had been mis-sold. As Usay had withdrawn its offer, she recommended it pay £100 compensation for not being clear enough.

Mr P disagreed and in summary, has made the following comments:

- The adviser at Usay gave incorrect advice about the deferred period
- The insurer declined his claim
- He went back to work sooner than he should have done as he couldn't afford to stay off work
- He has provided medical evidence to show he is unwell

And so the case has been passed to me for a decision.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, I think this complaint should be upheld in part as Mr P was given incorrect information, but I still think the policy was suitable for his needs.

I issued my provisional decision on 5 July which I've set out in full:

"The relevant rules say a seller, during an advised sale, should ensure the policy is right for the consumer. So this is what I will be considering.

Mr P spoke to Usay by telephone in February 2022 and made a number of calls in which the following key points were discussed:

- Mr P's medical history
- 'Day one' policies and the high cost
- 4-week deferred periods
- Mr P would be paid for absence after 4 weeks once he had a sick note
- The adviser would help with any claims he needed to make, he wouldn't have to worry about that

Usay has provided a total of 34 calls which took place between February and June 2022, all of which I have carefully listened to. In February, before Mr P took the policy, he asked how the 4-week deferred period worked if he was off for 4 weeks and then went back to work. He asked if he'd be paid benefit in that scenario. The adviser said she would find out and call back. But I haven't been provided with the call where she called Mr P back at the time.

However, in June 2022, when Mr P called Usay to confirm he needed to make a claim, the adviser admitted that she had given Mr P the wrong advice. She said she thought the 4-week deferred period meant Mr P wouldn't be paid if he was unwell for less than 4 weeks. But if he was unwell for more than 4 weeks, benefit would be paid and backdated to day one of his absence. This was her understanding on the basis of mortgage protection policies.

Based on these calls from June 2022, I'm satisfied the adviser gave Mr P incorrect information about the deferred period.

However, the paperwork which was issued to Mr P confirms how the deferred period works and when benefit would start to be paid. In addition, the adviser had confirmed there was only one insurer offering a day one policy where the premiums were high and would increase each year.

I'm not satisfied that Mr P would have taken the day one policy even if the adviser had given correct information about the deferred period as price was an important factor during the initial discussions. I think it's more likely than not that Mr P would still have chosen a policy with a 4-week deferred period based on the options available.

Mr P has also complained about the insurer and the customer service he received when he made a claim including the length of time it would take for the insurer to process a claim. However, Usay can't be held responsible for the actions of the insurer and if Mr P remains unhappy about the insurer's claim decision and customer service, he would need to raise a separate complaint directly with the insurer. My decision is limited to the actions of Usay during the sale of the income protection policy.

In response to Mr P's complaint, Usay had offered him £2,500, equivalent to one month's benefit, to cover the initial deferred period. It said it did this without knowing whether Mr P had a valid claim, and it was over and above what it needed to do. It said Mr P kept the policy following the complaint and it still felt it was suitable based on his needs as discussed during the initial calls.

I agree that the policy is suitable for any eligible and valid claims on the basis of cost. Mr P wouldn't receive any benefit for the first 4 weeks but after this point, he would receive benefit for eligible claims whilst he was off work, up to the maximum claim period.

However, I do think Mr P was given incorrect information which caused him some disappointment and a loss of expectation. The adviser suggested all Mr P would need was a sick note and any eligible claims would be paid out. But this isn't correct. An insurer is

entitled to verify a claim in line with its terms and conditions and will generally ask for further medical evidence such as specialist reports or examinations. The adviser could have been clearer that the insurer would assess any eligible claims based on the terms and conditions and medical evidence - and that isn't limited to just sick notes.

In addition, the adviser gave the impression that Mr P could contact Usay when he needed to claim but that was also incorrect. He would need to contact the insurer directly and comply with the insurer's requirements to make a claim.

In June 2022, Mr P was clearly told how the 4-week deferred period worked and continued with the policy he had bought. So I think any impact of the incorrect information was limited.

Based on all of the above, I think an amount of £500 compensation is fair and reasonable in the circumstances taking into account the incorrect information given to Mr P and his loss of expectation when he realised how the policy would work. However, the paperwork he received confirmed when benefit would be paid and by June 2022, he was aware of how the policy worked so I don't think the issue was long lasting."

Mr P responded to my provisional decision and said he felt insulted and was sold a policy which was false and affects his future directly. He also doesn't think all the recordings have been sent by Usay.

Mr P has now been provided with the recordings. I have accepted the adviser gave Mr P incorrect information but overall, I think the policy met Mr P's demands and needs for income protection at a price he could afford. When Mr P was presented with the one and only option of a day one policy, he commented it was very expensive. And the cost would rise each year. So I'm not satisfied he would have chosen that policy.

Mr P hasn't said what he thinks is missing from the calls. I note Mr P says his future is affected but the policy is still valid for eligible claims once the deferred period has passed. So I don't think it is unsuitable.

Usay has responded to say it doesn't think £500 compensation is in line with our bandings or case studies and says this is likely based on the offer made to Mr P in the final response letter. It says the case should be judged purely on its own merits and its initial offer should be completely ignored.

Usay made an offer to Mr P which was a lot higher than the award I am making. As Usay withdrew its offer, I have had to consider what a fair and reasonable compensation amount is in all the circumstances of this complaint. The bandings and guidelines are a guide but each case is assessed on its own merits and based on the impact of the individual consumer. The case studies don't set a precedent but are examples of the sorts of awards we make. Each case is different and is assessed individually.

I think £500 is appropriate as there was more than one failing by Usay which had more than a minor impact on Mr P. I think the mistake has caused Mr P considerable distress and worry as Mr P was given incorrect information during an advised sale which he relied on. Although the paperwork confirmed the deferred period, I think he was reassured by the adviser that his benefit would be backdated to day one. Additionally, the adviser made further promises including that Mr P could ask Usay to assist in processing the claim and also that a sick note would be sufficient to prove a claim.

I think the adviser should have directed Mr P to review and read the full terms and conditions of the policy and should have made it clear that the insurer would assess any claims and that he would have to make the claim himself. In failing to do so, Mr P would have felt

disappointment, confusion and distress when he learnt that the adviser had made a mistake about the deferred period and had given him additional incorrect information which he had relied on. When Mr P became absent from work and wanted the adviser to assist him, he learnt that she wouldn't be able to help him make a claim and a sick note by itself wasn't sufficient to meet the requirements of the policy.

I think all of these issues together had a significant impact on Mr P and he was shocked. For that reason, I think an award of £500 compensation is appropriate as it wasn't simply one issue or a simple mistake but a number of incorrect statements which wrongly reassured Mr P about how the policy worked. However, I am satisfied that by June 2022, he was sufficiently informed of the correct process for making a claim as well as the application of the deferred period. And that is why I haven't awarded further compensation.

My final decision

For the reasons set out above, I uphold this complaint in part and direct Usay Business Limited to pay Mr P £500 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 16 August 2023.

Shamaila Hussain
Ombudsman